

M. ROBERT KESTENBAUM, LLC
PATENT AND TRADEMARK MATTERS

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MAR 23 2005

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Attention: Director, Technology Center 2100	M. Robert Kestenbaum
COMPANY:	DATE:
Commissioner for Patents	MARCH 23, 2005
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
(703) 872-9306	11
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
(571) 272-3744	(H) 01PH0419 USP
RE:	YOUR REFERENCE NUMBER:
Petition and Issue Fee Payment	10/018,721

NOTES/COMMENTS:

Attention: Director of Technology Center 2100

We are faxing the issue fee payment with a Petition to Withdraw Holding of Abandonment Based On Failure to Receive Office Action. We never received the Notice of Allowance, and therefore, did not pay the issue fee. An affidavit from our docketing clerk is included with this petition, together with a copy of the docket record and calendar where the non-received Notice of Allowance would have been entered. A copy of the Notice of Abandonment is also included herewith.

Please withdraw the abandonment and credit the issue fee for this case.

Thank you in advance.

Sincerely,

M. Robert Kestenbaum
Reg. No. 20,430

11011 BERMUDA DUNES NE
ALBUQUERQUE, NEW MEXICO USA 87111
PHONE (505) 323-0771
FAX (505) 323-0865

Received 7 pages. page 7 is not completely printed. CH

Missing
4 pages.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: US Patent Application 10/018,721
Filed April 22, 2002
Applicant Meyer-Grafe
Art Unit 2125
Examiner
Examiner's Telephone (571) 272 3744
Examiner's Fax (703) 872 9306
Attorney Docket (H)01PH0419USP

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MAR 23 2005

Attention Technology Center 2100
PO Box 1450
Commissioner for Patents
Alexandria, Va. 22313-1450

Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office
Action under MPEP 711.03(c) II
Affidavit for Non-Receipt of Official USPTO Correspondence, Namely Notice of
Allowance

Dear Director of Technology Center 2100:

We learned that this application was abandoned when we received a Notice of
Abandonment mailed February 2, 2005. We contacted the Examiner. He advised us that
the case had been allowed on September 28, 2004, and the Notice of Allowance was
mailed on September 30, 2004. He faxed us a copy of the Notice of Allowance.

The Attachment to the Notice of Abandonment noted that if we had not received
the official communication from the USPTO, we should fax a Petition to Withdraw
Holding of Abandonment Based on Failure to Receive an Office Action under
MPEP 711.03(c)II and 37 CFR 1.181, and if the Office granted this petition, the Office
Action would be re-sent. Since the Examiner faxed us a copy of the Notice of
Allowance, we do not need to have the Notice of Allowance re-mailed to us. Rather, we
have included herewith the required Issue Fee payment, with this Petition to Withdraw
the Holding of Abandonment.

Meyer-Grafe (H) 01PH0491USP US Patent Application 10/018,721
Request to Withdraw Holding of Abandonment and Issue Fee Payment
Submitted on March 23, 2005

1

Applicant hereby attests that the Notice of Allowance mailed September 30, 2004 was never received, and a search of the file jacket and docket records indicates that the Notice of Allowance was not received.

An affidavit supporting the statement of non-receipt, is submitted with this Issue Fee Payment.

Respectfully submitted,



M. Robert Kestenbaum
Reg. No. 20,430
11011 Bermuda Dunes NE
Albuquerque, New Mexico 87111
Phone (505) 323-0771
Fax (505) 323-0865

I hereby certify this correspondence is being submitted by facsimile transmission to Commissioner for Patents, Alexandria, Virginia on March 23, 2005, fax number (703) 872-9306.



M. Robert Kestenbaum

10/018,721
Meyer-Grafe
(H) 01PH0419USP

Attachment A

I, Heidi M. Ortiz, hereby attest that I am the docket clerk in the office of M. Robert Kestenbaum. It is my duty to receive and docket incoming correspondence, and track its submission to the USPTO on a timely basis.

It is my standard procedure to collect, sort, and log correspondence on a daily basis AS SOON AS IT ARRIVES. My docketing system is based upon logging incoming correspondence as it is received. When I receive correspondence, I log it into my docketing sheets (see page A). The first column ("Mailed") notes when correspondence is mailed from the USPTO. I note the "Mailed" date from the USPTO. I then note the date the response is due in the "Due Date" (next to the last column) on the docketing sheet. I also note the due date and details on the calendar that I use to keep track of due dates.

Please note the line where I have written in an arrow on page A from my docketing log, showing that there is not an entry for a Notice of Allowance mailed on September 30, 2004. This indicates that the Notice of Allowance was not received from the USPTO. I am also enclosing the corresponding page from the calendar that I use to keep track of due dates, which indicates no Issue Fee payment for this case was logged in the calendar for December 30, 2004.

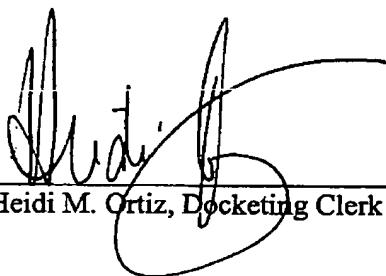
I KNOW THAT THE NOTICE OF ALLOWANCE FOR US PATENT APPLICATION 10/018,721 WAS NOT RECEIVED IN OUR OFFICE, BECAUSE IT WAS NOT LOGGED AS RECEIVED IN THE DOCKETING SHEET, NOR WAS IT LOGGED IN THE CALENDAR. THEREFORE, IT WAS NEVER RECEIVED IN OUR OFFICE.

10/018,721
Meyer-Grafe
(H) 01PH0419USP

I know that this docketing system works for our office, because I have been using it successfully for ten years.

For this application, I enclose a copy of our docketing sheet, as well as a copy of the appropriate page from our calendar. Also enclosed with this affidavit is the response that was required to the original Notice of Allowance (i.e., the Issue Fee payment).

I hereby declare that all statements made herein on my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.


Heidi M. Ortiz, Docketing Clerk

March 23, 2005
Date

Dec. 27-Jan. 2

2004-2005

Week 53

November 2004						
S	M	T	W	T	F	S
1	2	3	4	5	6	
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

December 2004						
S	M	T	W	T	F	S
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Monday, Dec. 27

Don't Forget

7	(BSP) 1002 US PM Renewal/Extension of 1/2/04	362/4
8		3
9		4
10		5
11		6
12		7
1		8
2		9
		10

Tuesday, Dec. 28

Don't Forget

7	Zweigl (K) S3 885 Status for find com from PRO by the date	363/3
8		3
9		4
10		5
11		6
12		7
1		8
2		9
		10

Wednesday, Dec. 29

Don't Forget

7	Arnold (H) 03SGLO14 1/2/04	364/2
8		3
9		4
10		5
11		6
12		7
1		8
2		9
		10

Thursday, Dec. 30

Don't Forget

7	TRUMARK OA 9/30/04 (mm) 849	365/1
8		3
9	ELSASER (BP-5092) AMEND OA 9/30/04 →	4
10		5
11	Offmann (H) 02SGLO310 OA 8/32/04	6
12		7
1		8
2		9
		10

704.110

PUMPKIN FOLDER ACTION ITEM CHECK LIST

Mailed	Docket #	Inventor	Action	Comments	IR?	Due Date	Done ?
5-18-04	(R) I1-US	Freiburg	IF	(Due August trans)		8-18-04	7-24-04
5-25-04	(R) 02HEL0249	USP Neiland	IF & PF	(Due August trans)		8-20-04	9/10
5-24-04	(E) 99023 PMS	Schuster	IF & PF	(Due July Trans)		7-24-04	8-21-04
						8-24-04	
1-29-04	671007	S. Licht	IF & PF	we can do - (Due Sept Trans)		9-20-04	9/27

BEST AVAILABLE COPY